

**APPLICANT:**  
**Hanson Partnership/Shelter Development LLC**

**REQUEST:**  
**Special Exception to construct 132 garden  
apartment units in the B3 District**

**HEARING DATE:**   **December 3, 2003**

**BEFORE THE**  
**ZONING HEARING EXAMINER**  
**FOR HARFORD COUNTY**  
**BOARD OF APPEALS**

**Case No. 5372**

### **ZONING HEARING EXAMINER'S DECISION**

**APPLICANT:**       Hanson Partnership  
**CO-APPLICANT:**   Shelter Development, LLC

**LOCATION:**        east side U.S. Route 40, Woodbridge Center, Edgewood  
Tax Map: 65 / Grid: 2D / Parcel: 285  
First Election District

**ZONING:**         B3 / General Business District

**REQUEST:**       Special exception to construct 132 garden apartment units in a B3, General  
Business District.

#### **TESTIMONY AND EVIDENCE OF RECORD:**

For the Applicant testified Jeffrey Hettleman, a Partner and Executive Vice President of the Applicant. According to Mr. Hettleman, the Applicant manages approximately 26,000 residential housing units around the country, with its focus on the Mid-Atlantic area. Mr. Hettleman identified and offered into evidence various photographs of other residential units constructed and managed by the Applicant. Those units are similar in appearance to what the Applicant proposes to build at the subject site.

Mr. Hettleman believes there is a strong need for quality residential apartments in Harford County. No new apartments have been constructed for some years. This need is particularly acute for people entering the work force who typically find that existing apartments either have no vacancies and/or are too expensive. Mr. Hettleman explained that this was an increasing problem in the Harford County area.

Shelter Development selected the subject property because of the scarcity of properly zoned land. The Applicant needs appropriate density, which requires either B3 or R4 zoning. The subject property is also at a good location because it has access to major roads. The subject property is close to 10 acres in size, and is located at U. S. Route 40 and Entrance Way.

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The Applicant proposes to construct 6 residential buildings containing a total of 132 units. The buildings will be 3 stories tall, with an elevation of approximately 40 feet. All units will have washers and dryers. A clubhouse and pool will be constructed. The property will remain undeveloped on its U. S. Route 40 side. A total of 265 parking units will be installed.

Mr. Hettleman believes the development of the subject site would have a positive impact on the area. Its main advantage is that it will provide housing for new workers in the area. The project would be marketed to people with incomes of approximately \$40,000.00 per year. Mr. Hettleman also feels that the use of this property as proposed would strengthen the community in that it would increase demand for business and services. The property is now a dumping ground of little benefit to the neighborhood. Mr. Hettleman testified that the Applicant has had a number of meetings with community and County groups. He indicated that the consensus of these meetings was supportive of the proposal.

Mr. Hettleman further stated that the recommended conditions by the Harford County Department of Planning and Zoning were acceptable to the Applicant, and concluded by saying that the proposed rentals would be in the \$700.00 to \$800.00 per month range.

Next for the Applicant testified Torrence Pierce, a professional engineer in the office of Frederick Ward Associates. Mr. Pierce was offered and accepted as an expert Civil Engineer. Mr. Pierce described the site plan and proposed landscaping as shown thereon. Mr. Pierce indicated that the Applicant would comply with storm water management regulations.

Mr. Pierce stated that the residence of Donna and Robert Ports was approximately 450 feet away from the subject property, with Harford County owning much of the property adjoining the subject site on its southern side. Mr. Pierce explained that no additional road improvements were necessary; projected traffic impacts were satisfactory; water and sewer is available and is in fact at the subject property; and there is adequate school capacity.

Kevin Maivelett, a resident of 717 Woodbridge Center Way, Edgewood, testified that he lives in a single family home, and he has no object to the project. He believes the proposal is a better use than its present use, and he would prefer it over other uses which could be made of the property.

Next testified Mildred Samy who resides at 1823 Grempler Way, Edgewood, Maryland. Ms. Samy has no objection to the proposed use, and believes it is necessary in order to help provide affordable housing for the middle class residents who will be moving into the area.

Salina Pleasant-Grice, President of the Edgewood Community Council, testified that the Edgewood Community Council had voted in support of the proposal.

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Next for the Applicant testified Joseph Cronyn. Mr. Cronyn was offered and admitted as an expert real estate economist and market analyst. Mr. Cronyn had performed an impact analysis of the proposed project. In order to prepare his analysis, Mr. Cronyn compared the area in which the project would be located to another similar area which is already impacted by multi-family housing. Mr. Cronyn identified this other area as Woodbridge Center South. He then made an effort to determine if the value of single family residential housing in the Woodbridge Center South area was impacted by the construction of multi-family housing in that area. Mr. Cronyn concluded that there was no such adverse impact. Based on that finding, and on the similarities between the Woodbridge Center South area and the area in which the subject project is to be located, Mr. Cronyn concluded that there would be no adverse impact on the value of existing housing by the construction of the proposed project. He further stated that the impact would be no worse than that of any commercial use of the site. In fact, he believes that commercial uses would be more intrusive than the residential use proposed.

Next for the Applicant testified Mickey Cornelius, offered and accepted as an except traffic engineer. Mr. Cornelius testified he had done an analysis of the traffic to be generated from the proposed project. He identified this study as being similar to an adequate public facilities study. Its purpose was to determine the potential impact of traffic generated by this project on the intersection at Woodbridge Center Way and Woodbridge Station Way. He did not study the intersection of Route 40 and Entrance Way as it is a right in / right out intersection only.

Mr. Cornelius' findings are that the existing level of service at the studied intersection, which is now level of service "D", would be maintained, and is acceptable. Mr. Cornelius indicated that he performed a signal warrant study for the studied intersection, and determined that a signal was not warranted by the increased traffic.

Kevin Small, a landscape architect with Frederick Ward Associates, was offered and accepted as an expert land planner. Mr. Small testified he is familiar with the site, feels that it fully complies with all applicable zoning code requirements, and agrees with the staff discussion and conditions. Mr. Small believes that the proposed use is a good, traditional use of the site and would have no adverse impact.

Next testified Anthony McClune, Deputy Director of the Department of Planning and Zoning. Mr. McClune discussed the recommendation of the Department's Staff Report. He indicated the property has a high intensity designation under the Harford County Land Use Plan. Mr. McClune stated that the project can meet or exceed all applicable zoning requirements. The Department also feels there would be no adverse impact upon traffic.

Accordingly to Mr. McClune, the property is not subject to adequate public facility standards as the subdivision of the site was originally approved as part of the Woodbridge Community Center. Mr. McClune believes that the proposal would generate less traffic than many other possible uses of the site.

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Donna Housmann identified herself as being a member of the Woodbridge Homeowners Association, which represents approximately 1,074 units in the area of the subject property. Ms. Housmann indicated that the Woodbridge Homeowners Association has taken a neutral position on the project. It is not opposed to the project, nor is it supportive. It is concerned about potential traffic impact. Ms. Housmann indicated that the intersection of Woodbridge Center Way and Woodbridge Station Way is a traffic problem. She also believes that the trips from the site would be greater than that discussed by the Applicant's traffic engineer. She believes the Mars Supermarket across Woodbridge Center Way will be even busier. She is also worried about property values and an increase in crime.

Next in opposition testified Donna Ports. Ms. Ports, whose property adjoins the subject property on its southwesterly side, is concerned about landscape buffering, and trespassers coming onto her property through the woods between her house and the proposed apartments. She would like to see the area fenced in some fashion to eliminate or at least diminish the possibility of trespassers coming onto her property from the proposed project.

### **APPLICABLE LAW:**

The Applicant is requesting a special exception to Section 267-53F(1) of the Harford County Code. The Applicant must also comply with Section 267-9(I), Limitations, Guides and Standards, of the Harford County Code.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

The Applicant is required to meet the requirements of Section 267-53F(1) in order to be granted the requested special exception. Based on the record, testimony, and a review of the Applicant's site plan, the Applicant can fully meet those requirements.

Harford County Code Section 267-53F(1) provides:

*F. Residential uses.*

*(1) Apartments, dwellings, garden, mid-rise and high-rise. These uses may be granted to the R4 and B3 Districts.*

The property is zoned B3/General Business District.

*(a) A minimum parcel area of not less than five (5) nor more than fifteen (15) acres shall be established.*

The subject property is approximately 9.91 acres.

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- (b) *The density shall not exceed twenty (20) dwelling units per acre for mid-rise apartments and thirty (30) dwelling units per acre for high-rise apartments, and the maximum building coverage shall be forty percent (40%) of the total parcel for mid-rise apartments and thirty percent (30%) of the total parcel for high-rise apartments.*

The Applicant proposes 12.7% of the site for building coverage, and considerably fewer than 20 units per acre. The Applicant is fully able to meet the requirements of this section.

- (c) *The location is suitable for apartment dwellings with regard to traffic, access, efficiency and convenience of land use and safety.*

Testimony of record indicated that access to the site would be adequate; there should be no impact on safety or property values in the area; and this is an appropriate land use.

- (d) *The proposed project is designed with properly arranged traffic flow and parking, buildings which are compatible and harmonious with surrounding uses, minimum obstruction to the view of those who live in the surrounding area and no adverse effect upon adjoining or surrounding properties.*

As mentioned, the evidence supports a finding that there will be no adverse impact upon surrounding properties with the exception of the Ports property which can be addressed by the imposition of suitable conditions, addressed below. The buildings appear to be compatible and harmonious with surrounding uses; parking is adequate; and traffic flow also appears to be adequate. The proposed use is non-intrusive, is fully compatible with the neighborhood, and is much less harmful than other potential uses.

- (e) *The open space shall constitute at least thirty-five percent (35%) of the parcel area, of which at least forty percent (40%) shall be suitable for and devoted to active recreation.*

The site plans shows approximately seven plus (7+) acres of open space, with active open space being 1.69 acres, which exceeds code requirements.

- (f) *Any area not used for buildings, structures or parking shall be landscaped and properly maintained.*

The Applicant has shown that all areas not used for buildings, structures, or parking shall be landscaped and will be maintained.

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- (g) *In the B3 District, apartment dwelling structures shall be able to provide retail and service uses primarily intended for the future residents to the extent of one thousand (1,000) square feet of gross floor area for every one hundred (100) dwelling units within the project. Business uses shall be located on only the first two (2) floors of any building. No more than one (1) restaurant or bar shall be permitted. No freestanding signs advertising the business uses shall be allowed.*

No retail or service uses are proposed.

The Applicant must, additionally, comply with Section 267-9(I) of the Code. The Applicant, based on its testimony of record, can comply with these conditions.

Section 267-9(I):

“Limitations, guides and standards. In addition to the specific standards, guidelines and criteria described in this Part 1 and other relevant considerations, the Board shall be guided by the following general considerations. Notwithstanding any of the provisions of this Part 1, the Board shall not approve an application if it finds that the proposed building, addition, extension of building or use, use or change of use would adversely affect the public health, safety and general welfare or would result in dangerous traffic conditions or jeopardize the lives or property of people living in the neighborhood. The Board may impose conditions or limitations on any approval, including the posting of performance guaranties, with regard to any of the following:

- (1) *The number of persons living or working in the immediate area.*

*The proposed project will, if anything, be a benefit to the people living and working in the immediate neighborhood. While concerns were expressed about potential harm to property values and worries of increased crime, these apprehensions, while perhaps understandable, were not supported by any evidence of record. Indeed, the evidence presented suggests that this project will be a needed, and stabilizing, use.*

- (2) *Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.*

Based on the traffic report, there should be no adverse impact on roads or traffic conditions in the area.

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- (3) *The orderly growth of the neighborhood and community and the fiscal impact on the county.*

The proposal is consistent with existing uses in the neighborhood.

- (4) *The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.*

There will be no adverse impact concerning these issues.

- (5) *Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.*

The subject property will be serviced by public water, sewer, and other public services.

- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

The proposal is consistent with accepted planning principals.

- (7) *The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.*

Churches, schools, parks, etc. should not be adversely impacted by the proposed project.

- (8) *The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

The proposed project is consistent with the Harford County Master Plan.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

There would be no adverse impact on any surrounding natural features.

- (10) *The preservation of cultural and historic landmarks.*

There are no cultural or historic landmarks identified that would be impacted by the proposed project.

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### **CONCLUSION:**

For the above reasons it is recommended that the proposed special exception be granted, subject to the following conditions:

1. The Applicant prepare a detailed site plan to be reviewed and approved through the Development Advisory Committee (DAC).
2. The site plan submitted to the County shall be in compliance with the site plan approved by the Board of Appeals.
3. The Applicant shall obtain all necessary permits and approvals for the proposed use.
4. A final landscaping plan/lighting plan consistent with the site plan shall be submitted to the Department of Planning and Zoning for review and approval with the site plan.
5. The terminus of Woodbridge Station Way must be properly abandoned and incorporated into the property as shown on the Applicant's site plan. A revised plat must be submitted to the Department of Planning and Zoning for approval and recordation in the Harford County Land Records.
6. The number of apartments shall be limited to 132.
7. That in order to clearly identify the common property line between the properties of the Applicants and of the Ports, and also in an effort to dissuade residents of the apartment complex from using the Ports' property, the Applicant shall construct and maintain a split rail fence, or other similar fence of natural materials, along that portion of its southwesterly property line, being about 150 feet long and running approximately northwest to southeast.

Date: January 5, 2004

ROBERT F. KAHOE, JR.  
Zoning Hearing Examiner